Manitoba

Annual Report 1990 - 91

The Clean Environment Commission

92-03981/

Minister of Environment

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

To His Honour
The Honourable George Johnson
Lieutenant-Governor of Manitoba
Room 235 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Your Honour:

The undersigned has the honour to present the Annual Report of The Clean Environment Commission detailing its activities for the fiscal year ending March 31, 1991.

Yours Sincerely,

J. Glen Cummings
Minsiter of Environment

Manitoba

Clean Environment Commission

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The Honourable J. Glen Cummings
Minister of Environment
Room 344 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Cummings:

Pursuant to the provisions of Section 6(10) of The Environment Act I am pleased to submit to you the Commission's annual report for the year ending March 31, 1991.

Submitted on behalf of the Commission.

O. Stanley Eagleton
Chairperson

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THE CLEAN ENVIRONMENT COMMISSION

During the 1990-91 year, Commission membership consisted of the following citizen appointees and full-time chairperson. The Minister responsible for The Environment Act for the period under review was the Honourable J. Glen Cummings, Minister of Environment.

Members of the Commission appointed by Order-in-Council October 24, 1988 for a term of three years and thereafter until their successors are appointed were:

Mr. Stan Eagleton, Civil servant, Winnipeg, Chairperson
Mr. Arnie Barr, Retired civil servant, Portage la Prairie
Mr. Maurice Blanchard, Commercial fisherman, Portage la Prairie
Ms. Linda Ericsson, Newspaper employee, Winnipeg
Mr. Len Flett, Retail executive, Winnipeg
Mr. Ed Gramiak, Building contractor, Winnipeg
Ms. Elizabeth Pawlicki, Real estate agent, Winnipeg
Ms. Donna Plant, Community worker, Winnipeg
Ms. Joan Vestby, Insurance agent, Swan River
Dr. Barrie Webster, University professor, Winnipeg

STAFF

Secretary/Technical Adviser.....Mr. Jim Warrener
Administrative Secretary.....Ms. Pat Goran

CHAIRPERSON'S REMARKS

During the course of the year under review it became apparent that several major projects which were planned for construction in Manitoba, and that would involve public hearings by the Clean Environment Commission, held an interest or an involvement of the Federal Government such that public hearings by the Federal Environmental Assessment and Review Office (FEARO) would also be necessary. This prospect became conclusive when a Supreme Court decision ruled that the FEARO process was mandatory when an environmental interest or decision of the Federal Government was involved in any development project having environmental impact implications.

Rather than contemplate two separate hearings (one federal and one provincial) for such projects, which would have to duplicate each other in many respects and would undoubtedly require much more cost and time than a single hearing, the Manitoba Environment Department worked in co-operation with the Federal Environment Department and FEARO to work out a mutually acceptable single panel hearing process designed to incorporate the more stringent demands from each of the Federal and Provincial requirements. Early in 1991, The Environment Act was amended to provide for Manitoba's participation in such joint federal-provincial environmental impact review panels, where a federal interest was involved, as a supplement or a substitute for the Clean Environment Commission process in appropriate circumstances.

This development means that several of the larger projects contemplated in Manitoba in the near future will now be reviewed in joint federal-provincial panel hearings rather than by the Clean Environment Commission process.

Other new legislative developments, such as the provision for the licencing of new landfill operations throughout the Province - including The City of Winnipeg - will undoubtedly involve additional hearings by the Commission.

In February of 1991, the Commission moved its office from Winnipeg to Steinbach under the Government's decentralization program. The Commission now

occupies an office in a new development complex located at Reimer Avenue and Main Street, in Steinbach.

Also during the year, the Commission determined that it would be useful to develop a set of written hearing procedures for review by the Commission with subsequent formal adoption of such rules in mind.

The Commission has never had formally adopted written procedures, although it has developed and utilized an informal but structured approach in conducting public hearings based on experience and precedence established over the many years of its operation. In this regard, it may be noteworthy that many, if not most, administrative and regulatory boards and commissions likewise do not have formally adopted written procedures.

Before adopting written procedures the Commission wished to consult with a wide spectrum of citizens familiar with the Commission and its hearing practice by virtue of past participation in Commission hearings. Using a preliminary draft of written procedures, prepared by the Commission's legal counsel, as a basis for discussion the Commission invited and met for discussion with representatives of government departments and agencies, municipal councils, environmental organizations, private sector proponents, the legal profession, and a number of interested private citizens. These series of meetings proved to be very interesting and helpful not only in the development of a new draft of written procedures but also in receiving useful feedback and the constructive criticism about the past practice and the perceived effectiveness of the Commission's informal conduct of hearings.

It was enlightening and interesting to note the high and general degree of support for the informal rather than formal or legalistic style of hearing practice with which the Commission has attempted to conduct the majority of its hearings, many of which have been held in a rural setting, and all of which have been designed to encourage and accommodate easy participation by ordinary citizens.

The Commission will further develop a revised draft of written procedures in the coming year for further consideration and possible formal adoption.

HEARING PROCESS UNDER THE ACT

The Environment Act and Regulations set out three formally designated classes of development proposals, each of which may require the proponent to prepare an environmental impact assessment of the proposal to the satisfaction of the Departmental licencing "director" who may require the proponent to undertake additional studies or the compilation of such additional information as may be considered to be necessary.

Guidelines and instructions for the necessary environmental impact assessments are provided by the Department. Part of the environmental impact assessment process is the requirement that a copy of the proposal be filed with the Interdepartmental Planning Board and that a copy also be circulated to such other departments as may be affected by the development for their review and comment. In addition, a Technical Advisory Committee of appropriate departmental officials may be appointed to jointly consider and comment on the proposal in order to assist the deliberations of the Interdepartmental Planning Board.

The consideration and preparation of an adequate environmental impact assessment is an essential preliminary requirement preceding any subsequent judgment and recommendations for licencing considerations. The procedures outlined in the Act should provide the vehicle for the preparation of satisfactory environmental impact assessment reports and bring into play the important professional expertise contained within the ranks of the staff of government departments.

The Act also assures that the public are kept informed by means of a Public Registry. A summary of the proposal is filed in public registries located throughout the Province. Advertisements concerning the proposals are also placed in local newspapers. Such advertisements, and the placement of the proposal and environmental assessment in the Registry, provide assurance that the public will have opportunity to express comments, concerns, or objections. It is these expressions of concern which stimulate a request by the Environment Minister for a Clean Environment Commission hearing.

When the Commission has received a hearing request, the provision of public information and consultation concerning suitable hearing dates, pre-hearing exchange of information and questions, and the distribution of environmental impact assessment and other hearing material to interested parties and hearing participants comes under the direction of the Commission. The Public Registry system of the Department of Environment is utilized to provide an additional vehicle for the dissemination of appropriate hearing information to the public during the development and conduct of the Commission's hearings, leading to its report to the Minister.

An interested, informed, and participating public is a key objective in the successful operation of The Environment Act. In its operations, the Commission has attempted to ensure that this objective is achieved.

HEARINGS

The Commission reported on 5 hearings during the fiscal year 1990/91 on proposals referred to it by the Minister under The Environment Act. Two of the hearings were held in connection with matters related to surface water bodies. One of the hearings dealt with concerns associated with impacts from a municipal wastewater lagoon. The remaining hearings referred to air, water and soil impacts resulting from industrial operations.

SURFACE WATER

Ducks Unlimited Canada Oak Hammock Marsh Conservation Centre/Office Complex Proposal

In December, 1989, Ducks Unlimited Canada filed a proposal for licencing under The Environment Act, to construct and operate a Conservation Centre Complex, including a head office facility, within the Oak Hammock Marsh Wildlife Management Area. The Oak Hammock Marsh is located 30 km north of Winnipeg.

The Commission held a hearing on the proposal in Winnipeg on March 26, 27 and 28, 1990 and submitted its report with recommendations in July, 1990.

The proposed conservation centre would focus on wetland associated environmental education with a location adjoining the marsh that would provide first hand observation of an important wetland. The headquarters office for Ducks Unlimited would be an integral part of the conservation centre building complex, allowing various support services to be shared with the conservation centre.

The Department of Natural Resources has operated a limited interpretive centre at the marsh including a few man made facilities such as a parking lot, a small interpretive building, boardwalks and footpaths and toilet facilities. The marsh had accommodated up to 80,000 visitors in the past. Market surveys indicated that up to 210,000 visitors would frequent the new facility.

On advertisement of the registration of the proposal, numerous responses were filed with the Environment Department. The proposal had a considerable number and variety of both supporters and detractors.

At the hearing, a number of supporters noted that the present Oak Hammock Marsh is not a pristine wilderness but rather an extensively modified and reclaimed area which had been redeveloped and was now managed and operated as an artificially controlled and regulated wetland. The principal argument favouring the conservation centre was that it would help to educate people about the uses and importance of the wetland environment which in turn would help to overcome public apathy to the need for wildlife education and the need for wetland preservation and restoration. A location in such close proximity to Winnipeg would enhance the educational value of the centre. Arguments were also made that the facilities would not significantly affect the wildlife or the marsh itself.

The major opposition to the conservation facility was centred upon the principal that a Wildlife Management Area and Heritage Marsh is not an acceptable place for an office complex. Some of the office detractors supported the concept of a non-disruptive expansion of the interpretive centre to increase public appreciation and education. Still others felt that the present interpretation centre was adequate. In a number of views, the inclusion of an office building would set a dangerous precedent for future development of any kind in any wildlife management area. A number of the opponents were also critical of increased vehicular traffic and questioned the ability of the marsh to sustain the projected new number of visitors without unacceptable damage to the marsh.

Government representatives were generally agreed that the impacts from the project could be mitigated, although some land use planners questioned the proposal with regard to its consistency with the policy, intent, and purpose of the designation and zoning of the lands on which the project was proposed to be located.

After consideration of all of the evidence and argument received at the hearing with regard to the entire proposal, as submitted, the Commission recommended that a licence be issued to Ducks Unlimited to construct and operate the proposed conservation centre/office complex development at Oak Hammock Marsh Wildlife Management Area including the following specific recommendations: that the construction activities must be carried out in a manner that would minimize impacts to the environment; that there be no admission charge to the Wildlife Management Area; that the activities of the interpretive centre be governed by a Management Board with equal representatives from Ducks Unlimited and Department of Natural Resources; that the management of the Oak Hammock Marsh Wildlife Management Area remain fully within the administrative control of the Department of Natural Resources; that an Advisory Committee composed of representatives from related organizations committees, and groups be appointed by the Management Board, subject to approval by the Department of Environment; and that a monitoring program be established that would provide estimates of impacts in order that mitigative measures, that would eliminate any unacceptable stress that may be identified, can be implemented.

The report and recommendations were approved by a majority of the Commission.

Pelican Lake Enhancement Project

A proposal was filed on August 15, 1989 under The Environment Act by the Water Resources Branch of the Manitoba Department of Natural Resources under The Environment Act for a water control project designed to improve the regulation of the water level of Pelican Lake within designated target levels of 411.48 to 411.94 meters above sea level. Funds proposed for the project included Federal and Provincial grants.

The Commission held hearings in Ninette and Brandon on March 8, 1990 and submitted its report with recommendations in June, 1990.

The project design called for water to be withdrawn from the headwaters of the Pembina River through an inlet diversion channel, including a control structure. The design included a weir on the Pembina River with a 500 mm diameter pipe to allow a base flow to continue down river to Lorne Lake and beyond when flow in the river exists. There was also an outlet channel with an outlet control structure to return water from Pelican Lake to the Pembina River at a location immediately upstream of Lorne Lake.

The presentation by the proponent indicated that both high and low water levels had been a problem at Pelican Lake throughout many past years. The project proposed was essentially one of refurbishment and improvement of a badly deteriorated system of control works constructed and modified in the past. The proposed works had been designed to result in water levels predicted to be within 0.3 meters of the 411.78 meters target, with the exception that the lake would drop below this target level during a prolonged drought period. The levels of Lorne and Louise Lakes, 2 small lakes below the diversion, would stabilize at 408 meters over a dry year. The reduction of flow below the diversion would somewhat reduce the flow downstream from Rock Lake but not the level of Rock Lake itself. Impacts on the quality and quantity of the river regime below the diversion were predicted to be minor. It was also projected that water stored in Pelican Lake might be available for downstream purposes during periods of low flow in the river system.

The total area affected by the project includes land located within 4 neighbouring municipalities. Included within this land are an unincorporated village, a rehabilitation centre, several commercial resorts, two church camps and a large number of summer cottages located along the shore line of the lake. The municipal councils and all of these interest groups supported the project.

There were a number of concerns presented by both individuals and groups located downstream of the project along the Pembina River including an organized group of downstream farmers who believed that their water supply might be adversely effected from both a quality and quantity perspective. A number of

individuals expressed the view that the EIA was inadequate and that insufficient time was provided for an appropriate analysis of the project documents. Several questioned the validity and interpretation of the water quality data. Others believed that toxic algae water blooms from Pelican Lake would add to the degradation downstream from the diversion. Concerns were expressed for the impact of the diversion on the fish spawn in both Lorne Lake and its headwaters. Still others felt that the project touched a number of Federal jurisdictional matters such as navigable waters protection, wildlife and international boundary concerns and, therefore, believed that there should be a federal review mechanism in addition to the ongoing Provincial review.

The Commission concluded that adverse environmental impacts would not be significant and that, while the quality of the water of Pelican Lake would not be improved by the project, the additional water level regulation which would be achieved would be beneficial to most of the uses and users of Pelican Lake.

The Commission recommended that a licence be issued to construct and operate the Pelican Lake Enhancement Project. A very important facet of the Commission's recommendations was that a Pelican Lake Advisory Committee be formed with representation from all of the interest groups. This Committee would regularly review the project's operation and flow forecasts in order to optimally target the level of Pelican Lake, to ensure adequate flows in the river and Lorne and Louise Lakes, and to ensure that flooding does not occur.

WATER POLLUTION CONTROL

The Village of St. Claude

The Village of St. Claude located 90 km west of Winnipeg on PTH #2 has experienced difficulty in the operation of their sewage lagoon system for some considerable time.

In January, 1979, a number of complaints were received concerning both odors and seepage from the lagoon facility. Following a hearing that year, the Commission recommended that the lagoon storage cell be rendered impermeable. Due to the high cost of lining the cell, the Village was granted a varied order requiring the construction of an interceptor ditch to collect seepage.

Seepage and odor complaints continued and in June, 1989, the Environment Department commissioned the Canada-Manitoba Soil Survey to undertake an extensive environmental impact study on lands in the area of the St. Claude sewage lagoon and along the effluent discharge route. In November, 1989, the Minister requested the Commission to hold another hearing concerning the continued operation of the sewage lagoon.

At the hearing in April, 1990, representatives from the Canada-Manitoba Soil Survey group confirmed that the lagoon was leaking and that there was an effect from the leakage on adjoining land. The study observed that without the addition of a lagoon liner and elimination of all possible sources of salinity from the wastewater, adverse effects would continue to spread beyond the present area of strongly affected soil.

The Village of St. Claude's Engineering Consultant stated that the wastewater salinity had been significantly reduced and that, based upon these salt reductions, seepage water from an unlined lagoon would not be unacceptable in the shallow aquifer.

Representatives of the owners of the agricultural land adjoining the lagoon and lagoon drain did not provide testimony because civil litigation was in process.

Another citizen testified to a concern that he had with respect to odors from the facility.

In 1988, the Environment Department had prepared recommended limits, terms, and conditions that they would like the Village to meet, including a requirement that the lagoons be lined and that effluent meet salt limits as prescribed by the Manitoba Surface Quality Objectives.

The Commission concluded that seepage of a brackish to saline wastewater effluent had resulted in soil and crop damage to lands adjacent to the lagoon and discharge route. The Commission recommended that the lagoon cells be rendered impervious. There were also recommendations relating to the monitoring of this condition and a recommendation dealing with the organic loading of the system and aeration requirements.

INDUSTRIAL OPERATIONS

Meadow Materials - East Selkirk

Meadow Materials proposed the construction of a pilot plant for the production of silicon at a site located on the property of the Manitoba Hydro Thermal Generating Station in East Selkirk. The proposed operation is of a research nature and as such would have a relatively short life span.

The proposed plant process involves the utilization of a silica source, such as sand, in a closed plasma furnace. At high furnace temperatures silica is reduced to silicon. The silicon product produced would be purified by oxidation and permitted to solidify prior to crushing.

The principal air emission of the process is carbon monoxide which would be cleaned before its conversion by combustion to carbon dioxide. The only occasion when emissions might exceed Manitoba Air Quality Objectives would be in the event of a non-typical emergency venting requirement. The duration of this venting would be only 15 minutes with the concentration not expected to exceed the "Acceptable" level designated in the Manitoba Air Quality Objectives. Air filtration equipment has been incorporated into the design to capture fugitive particles resulting from material

handling. Water pollution is not significant in the proposed process, consisting of blowdown to the Red River from a closed loop cooling system. Sanitary wastes are to be collected and removed for disposal to the Water Pollution Control Centre of the Town of Selkirk.

The Selkirk and District Environmental Organization (SDEO), representing approximately 100 residents of the communities of Selkirk and East Selkirk, presented a brief which outlined their concerns regarding the Meadow Materials proposal. Their chief concern was an expressed belief that there was a lack of concrete data especially with respect to the potential impact of cumulative emissions, including those from both the proposed project and the Manitoba Hydro Thermal Generating Station.

A representative of Searle Green Houses Ltd. expressed concerns about the predicted level of emissions and their possible impacts upon the greenhouse operation, which is environmentally sensitive.

The Commission recommended that an Environment Licence include limitations on the aerial emissions of carbon monoxide, nitrogen dioxide, sulphur dioxide and suspended particulate matter. It was also recommended that the Applicant undertake a source monitoring program to determine levels of carbon monoxide, nitrogen dioxide, sulphur dioxide and suspended particulate matter at such locations and with such frequency as directed by the Environment Department.

Beausejour Auto Wrecking

Beausejour Auto Wrecking has been in operation in the northwest outskirts of Beausejour for over 40 years.

The present owner took possession of the business in 1987. One of the 2 lots upon which the business operates was annexed to the Town from the Rural Municipality of Brokenhead in 1988. By reason of Town zoning, this lot is, in fact, the only lot on which the business of auto wrecking can be legally conducted. The second

lot, that had previously been located in Town, is zoned residential and the business owner had been requested by the Town to remove vehicles from this lot. There was no compliance with this request and in July, 1990, the Environment Department directed the owner to register a proposal for his operation under The Environment Act.

At the hearing, many complaints were received from Town residents concerning the operation including fire hazard conditions, an excessive number of vehicles, use of a residential lot for the operation of the business, illegal storage of vehicles on both Town and private property, the absence of fencing to assure visual asthetics, and a concern for groundwater contamination.

The Commission recommended limits, terms, and conditions for an Environment Licence that would require the following: confinement of the operation to the industrially zoned lot; proper collection and disposal of spent fluids from vehicles; proper spacing of vehicles including provision of a fire lane; and the construction of a suitable fence that would provide a screen 8 feet in height.

* *

NOTE: The Commission convened one additional hearing in February during the 1990/91 fiscal year. The Commission was to review the Licence which was issued to the Hudson Bay Mining and Smelting Co. Ltd. - Namew Lake Mine on October 12, 1989, based upon a recommendation of the Commission in the Licence, on or before December 31, 1991. At the request of the Environment Minister, a hearing was held at both The Pas, Manitoba and Cumberland House, Saskatchewan. The matter brought under review at this hearing was not reported until the following fiscal year. This hearing will, therefore, be outlined in the Commission's 1991/92 Annual Report.

PUBLIC HEARINGS 1990/91

Hearing Number	Date	Subject	Location
H-01-90/91	90/04/17	The Village of St. Claude concerning the operation of a wastewater collection system and reconstruction and operation of a wastewater treatment lagoon located on NE 1/4 of Section 15, Township 8, Range 7 WPM and with discharge of treated effluent to the Elm Creek drainage system via municipal and provincial drainage systems.	St. Claude
H-02-90/91	90/07/31	Meadow Materials (Dow Corning Silicon Energy Systems, Inc.) concerning the construction and operation of a Silicon Products Pilot Plant in East Selkirk.	East Selkirk
H-03-90/91	91/01/08	Beausejour Auto Wrecking concerning the continuing operation of an automobile wrecking business in the Town of Beausejour.	Beausejour
H-04-90/91	91/02/25 91/02/27	The Hudson Bay Mining & Smelting Co., Limited concerning the operation of a nickel/copper mine and mill complex commonly known as the Namew Lake Mine, located on the east side of Namew Lake, in Manitoba, within Township 60, Range 29 WPM.	The Pas, Man. Cumberland, Sask.

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